

MALACAÑANG  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 26

REMOVING MR. ELIEZER TENGCO FROM OFFICE AS THIRD ASSISTANT  
PROVINCIAL FISCAL OF LAGUNA.

This is an administrative case against Mr. Eliezer Tengco, Third Assistant Provincial Fiscal of Laguna, who, together with Provincial Fiscal Juan Salazar of the same province, stands charged with dishonesty, misconduct in office and neglect of duty. The charges against both were investigated by a special panel created by the Department of Justice, composed of the City Fiscal of Baguio and the Provincial Fiscals of Nueva Ecija and Bukidnon. This decision is limited to the case against Fiscal Tengco, who shall be referred to hereafter as the respondent. The case against Fiscal Salazar will be disposed of separately.

The pertinent facts established during the investigation are briefly stated as follows:

On February 23, 1964, at Famy, Laguna, untaxed "Union" cigarettes were confiscated by the Philippine Constabulary provincial command. An inventory in the presence of respondent, among others, was taken on the same day, showing that the catch consisted of 192 cases of genuine blue seal cigarettes (Exh. A). Respondent, after conducting the preliminary investigation of the criminal case against the persons in whose possession the cigarettes were confiscated, filed the proper criminal information on February 24, 1964 (Exh. T). The cigarettes were then transferred by the PC provincial commander to the Bureau of Internal Revenue Regional Office at San Pablo City, with the BIR administrative officer issuing a receipt therefor, stating that the items were genuine blue seal cigarettes (Exhs. B & C).

On March 9, 1964, counsel for the accused in the criminal case for possession of untaxed cigarettes requested a reinvestigation of the case (Exh. BB). The petition for reinvestigation was granted. On March 24, 1964, the Provincial Fiscal addressed a letter (Exh. K) to the BIR regional director requesting that the goods be transferred to the former's office at Sta. Cruz, Laguna, for presentation as evidence in the reinvestigation of the criminal case. Reynaldo Cambel, administrative officer of the provincial fiscal's office, was authorized to take possession of the confiscated goods. On the way to Sta. Cruz, at Magdalena,

*Tengco, Eliezer*

Cambel, at the instigation of the alleged smuggler, Luis Barcelona, together with other persons including members of the police force of San Pablo City, effected a switch, whereby 142 cases of genuine blue seal cigarettes were changed with similar cases containing rice bran or chaff (Exh. II, sworn statement of Cambel). Cambel, about midnight of April 12, 1964, effected a second swap in the courthouse at Sta. Cruz, Laguna, where he got 34 cases of cigarettes. This incident was witnessed by the guards who duly reported the matter to the deputy clerk of court. On the morning of the same day, Cambel distraught by his having been caught "while in the act of interchanging the evidence—cigarettes," approached respondent and confessed the whole affair. Respondent and Cambel forthwith proceeded to Manila to report to the Provincial Fiscal.

The reinvestigation of the criminal case against the possessors of the blue seal cigarettes by respondent, although postponed for several times, finally took place on May 5, 1964. When a second inventory of the cigarettes was thereupon taken, it was found out that of the original 9,600 cartons contained in 192 cases, only 2,000 cartons distributed among 192 cases were left. Respondent then prepared the resolution recommending the amendment of the original information so as to reduce the quantity of cigarettes from 9,600 to 2,000 cartons and the value thereof from ₱50,688 to ₱10,500. The Provincial Fiscal approved the resolution and the amended information dated May 5, 1964, was filed in court although the same was not sworn to until May 26, 1964.

Respondent in his sworn statement (Exh. EE) admitted that even before the reinvestigation conducted on May 5, 1964, he had known of the substitution at Magdalena and at the courthouse because Cambel had confessed the incidents to him. While respondent alleged that he reported the substitutions to the Provincial Fiscal on April 12, 1964, the investigators' impression, which is believed correct, is that respondent in truth proceeded to Manila with his brother and Cambel not to report the matter but to ask the Provincial Fiscal to intercede with the clerk of court to direct the guards who caught Cambel to allow the 176 fake cases of cigarettes to be brought to the court building. The advice of the Provincial Fiscal was for them to see the clerk of court, which they did, and upon their return, Judge Ernesto Tengco, brother of respondent, gave the assurance that they would take care of the guards.

Sometime in the month of April 1964 Cambel telephoned respondent informing the latter that one Edgardo Lope had been apprehended in Sta. Cruz by the constabulary for possession of 25 cartons of blue seal cigarettes apparently taken from the courthouse. Respondent upon hearing this report lost no time in proceeding to the PC barracks where he talked with a PC captain who gave the assurance that Lope would be released. At the barracks, respondent saw the 25 cartons of cigarettes but made no inquiries from Lope where he had gotten them. No case was filed against Lope and no report was ever made concerning the 25 cartons of blue seal cigarettes.

By way of exculpation, respondent claims that the substitutions did not affect the integrity or the number of the cartons of cigarettes. This defense obviously cannot be given weight. For one thing, at the time the inventory of the goods was taken, respondent did not indicate that the cases contained worthless materials as he now asserts. For another, no evidence was presented that the cases substituted indeed contained worthless goods. Besides, if respondent's claim were true, Cambel certainly would not have committed a second substitution on April 12, 1964. Then, too, when Edgardo Lope took 25 cartons of cigarettes from the courthouse, to that extent at least the true amount of cigarettes was impaired.

Respondent further sets up the defense that he was prodded by Cambel into signing the amended information. This barefaced attempt to exculpate himself only betrays respondent's ineptitude, lack of character and firm resolve to uphold the law, for to admit that an assistant fiscal could be prodded by his administrative officer, a subordinate employee, into signing something which he believed was illegal and improper would certainly warrant the belief that respondent truly lacks the proper endowment of character so essential to his office.

Unacceptable, too, is respondent's explanation that in interceding for the release of Edgardo Lope he merely acted in behalf of a co-employee, Cambel. Respondent, knowing the criminal nature of the actuation of Lope, never took action against him nor did he even report the matter to the Provincial Fiscal.

It may thus be seen that respondent not only kept silent about the substitution and pilferage but in fact sanctioned and permitted the bringing of 176 fake cases of cigarettes to cover up the pilferage and theft. With the knowledge of the substitution and pilferage, and the untaxed cigarettes having been in the meanwhile reduced from 9,000 to 2,000 cases with

the corresponding reduction in value from ₱50,688 to ₱10,500, respondent nevertheless undertook the reinvestigation of the case and prepared a resolution to support an amended information charging the accused with possession of only 2,000 cartons of untaxed blue seal cigarettes.

Even assuming arguendo that respondent had no prior knowledge of any scheme to substitute or pilfer the cigarettes, there is clear, strong and incontrovertible proof that after having learned of the substitution at Magdalena and subsequently at the courthouse, he not only failed to discharge his duty but performed acts tending to conceal the crimes committed. This conduct is clearly most unbecoming an officer of the law. The crimes which respondent tried to cover up were intimately related to a more heinous offense—smuggling—against which the Government has been exerting unremitting efforts to eradicate or at least greatly minimize because of its pernicious and ruinous effects on the national economy and the people's moral fiber.

In view of the foregoing, I find respondent guilty of neglect of duty of such a serious nature as to warrant his separation from the service.

Wherefore, Mr. Eliezer Tengco is hereby removed from office as Third Assistant Provincial Fiscal of Laguna, effective upon receipt of a copy hereof.

Done in the City of Manila this 11th day of November, in the year of Our Lord, nineteen hundred and sixty-six.

By the President:

  
RAFAEL M. SALAS  
Executive Secretary

